

TITLE 327 WATER POLLUTION CONTROL BOARD

LSA Document #99-111

SUMMARY/RESPONSE TO COMMENTS RECEIVED AT THE FIRST PUBLIC HEARING

On January 12, 2000, the water pollution control board (board) conducted the first public hearing/board meeting concerning the development of amendments to 327 IAC 5-2-11.7. Comments were made by the following parties:

Peter Beronio, BP Amoco (BPA)

Charlotte Read, Save the Dunes Council (SDC)

Jane Dustin, Izaak Walton League (IWL)

Rae Schnapp, Hoosier Environmental Council (HEC)

Following is a summary of the comments received and IDEM's responses thereto.

Comment: The process used to develop the amendments to 327 IAC 5-2-11.7 was positive because it included a balanced mix of environmental organizations, regulated entities, and IDEM representatives. (BPA, SDC, HEC)

Response: IDEM appreciates the support of the process that was followed to amend this rule.

Comment: BP Amoco supports preliminary adoption of the amendments to 327 IAC 5-2-11.7. The amendments will make necessary clarifications to implementation of the rule. (BPA).

Response: IDEM agrees with the comment.

Comment: Although the amendments to 327 IAC 5-2-11.7 will not result in a perfect rule, they represent a good faith effort by various parties. The rule will need to be revisited in the future, but these amendments are a positive step forward. The board should preliminarily adopt the amendments to the rule. (SDC, HEC)

Response: IDEM appreciates and agrees with this comment.

Comment: IDEM needs to begin addressing nonpoint sources in its antidegradation rules. (SDC).

Response: IDEM agrees and will make efforts to address nonpoint sources in the future.

Comment: The board should not preliminarily adopt the amendments to 327 IAC 5-2-11.7. The amendments place outstanding state resource waters into the Tier 2 high quality waters category because degradation is allowed through exceptions. The amendments also do not require net improvement in all cases. (IWL)

Response: The commentor is correct, the amendments do place OSRWs in the Tier 2, high quality waters category. The placement, though, is in between a Tier 2 and Tier 3 category. The antidegradation requirements are more stringent than what is required for a Tier 2 water and less stringent than what is required for a Tier 3 water. At the present time, this appears to be a reasonable compromise.

Comment: The list of bioaccumulative chemicals of concern (BCCs) in Indiana's rules is too limited. The amendments to this rule should restrict the discharge of all pollutants as much as possible to move closer to the goal of the Clean Water Act. (IWL)

Response: IDEM believes that these amendments do move control of the discharge of pollutants closer to the goal. These amendments affect BCCs and nonBCCs equally, whereas the high quality water antidegradation requirements do not. Concerning the list of BCCs, it is the list the Board adopted recently and cannot be modified in this rulemaking. The BCC list in Indiana's rules are identical to the EPA recommended list from the Great Lakes Water Quality Guidance document.

Comment: IDEM should not rely on nonrule policy documents to clarify implementation of 327 IAC 5-2-11.7. All issues should be clearly addressed in rule language. (IWL)

Response: IDEM understands the commentors concern and does not disagree. It is true, though, that not all issues can be written into rule language. When this is the case, nonrule policies are required by state statute to clarify policies and procedures that IDEM will use to implement its rules.